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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
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12 BURT BOBBIE DANIELS,

Civil No. 09-1250-RJB/JRC

13 Plaintiff,

14 vs.

ORDER ADOPTING REPORT AND
RECOMMENDATION

15 DR. ROBERT SAARI, *et al.*,

16 Defendant.
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18 This matter comes before the Court on the Report and Recommendation of U.S.
19 Magistrate Judge J. Richard Creatura. Dkt. 8. The Court has considered the Report and
20 Recommendation, objections, if any, and the record herein.
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22 The Report and Recommendation discusses the facts and law at issue here. Dkt. 8. The
23 plaintiff has raised a 42 U.S.C. § 1983 civil rights action, alleging that the diagnosis he received as
24 part of his civil commitment proceeding does not exist. The Report and Recommendation states
25 that the plaintiff is thus collaterally challenging his civil commitment, and therefore that the plaintiff
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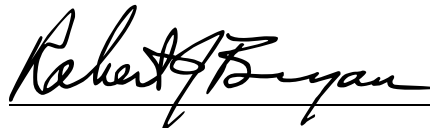
1 must proceed in a habeas corpus action rather than a civil rights action. However, the Report and
2 Recommendation should also include authority stating that the analysis performed by the court
3 applies to individuals who are in civil commitment as well as incarceration. The Report and
4 Recommendation should be adopted with the following authority included:
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6 *Heck v. Humphrey* applies to persons detained as sexually violent predators who have
7 access to habeas relief. *Huftile v. Miccio-Fonseca*, 410 F.3d 1136, 1140 (9th Cir. 2005).

8 The Court hereby **ORDERS**:

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10 1) The Report and Recommendation (Dkt. 8) is **ADOPTED**;
11 2) The plaintiff's action is **DISMISSED** without prejudice; and
12 3) The Clerk is directed to send copies of this Order to all attorneys of record and to the
13 Hon. J. Richard Creatura.

14 DATED this 23rd day of October, 2009.

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18 Robert J. Bryan
19 United States District Judge
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